REMARKS

Claims 1-7, 12-16 and 18-20 are pending. Claims 1 and 12 are independent. Claims 1-7, 12-16 and 20 were rejected as being unpatentable over US 2003/0095688 A1 (Kirmuss) in view of US 2003/0112929 A1 (Chuang) and US Patent 5,794,164 (Beckert).

For the reasons described in detail in the following remarks, the rejection based on the alleged combined teachings of Kirmuss, Chuang and Beckert is respectfully traversed and reconsideration is requested.

Again, independent Claim 1 is directed to an in-car video system including a video camera fixably mounted to a vehicle for capturing an image of an event and producing a corresponding video stream, a digital video recorder, fixably mounted to the vehicle, having a receiving area being adapted to operably couple a flash memory card to the digital video recorder so that the flash memory functions as a digital video storage medium, and a controller coupled to the video recorder to control writing of data that is representative of the video stream to a flash memory to thereby generate a stored video record of the event. The *digital video recorder and controller* are integrally packaged and *sized to fit substantially within a factory-sized radio opening of a production vehicle having a police package option, and, is in a direct operative relationship with a user seated in the front seat of the vehicle.*

Independent Claim 12 is directed to a method of operating a digital video recorder, in a vehicle-mounted video system including a car-mounted camera, the method including the steps of receiving a flash memory card in a receiving area of the digital video recorder, the receiving area being adapted to operably couple the flash memory card to the digital video recorder so that the flash memory functions as a digital video storage medium, receiving a video stream of an event captured by the camera, converting the video stream to a form that is writable to the flash memory, writing the converted video stream to the flash memory to thereby store a record of the event on the flash memory, and *fixably positioning the digital video recorder substantially within a dashboard area of the vehicle so that the digital video recorder is in a direct operative relationship with a user seated in the front seat of the vehicle.*

Kirmuss addresses, among other issues, the problem of heating/cooling of mobile video recorders (see para [0037]). This problem is recognized in the prior art according to Kirmuss since both VCR and PC-based (i.e., digital recorders) do not operate very well in extreme conditions (para's [0011] and [0012]). Kirmuss mentions that very low temperatures (e.g., at or below 30° F), can cause operating problems or damage and extreme temperatures of 150° F or more are beyond what can be handled by current systems (para's [0011] and [0012]).

The thermo-electric cooler (element 294 in Figure 2 of Kirmuss), that is noted by the Examiner in his Response to (Applicants' previous) Arguments section of the Final Office Action, is part of the solution proposed by Kirmuss as discussed in detail in paragraphs [0189] to [0204] and show in Figures 7, 8 and 9. This solution is intended to keep the mobile video recorder within an operating range of approximately 30 to 125° F through the use of a shut off circuit (para [0190]).

Applicants cite the use of non-volatile memory, including EEPROM type CompactFlash memory, as being particular advantageous. As noted in paragraph [0022] of the application as filed, "[f]lash memory cards are typically rugged, durable and long lasting...[t]hey can withstand wide temperature ranges as well as high levels of shock and vibration." Applicant is prepared to provide additional evidence including affidavit or other documentation to support this assertion (or the Examiner may take official notice of the same), but flash memory, by virtue of having no moving parts, can operate in a wider temperature range than that disclosed as a concern in Kirmuss. This performance was also available in flash memory that was available at the time of the filing of Kirmuss. Accordingly, there is no motivation provided by Kirmuss to combine the disclosure in Chuang, as alleged by the Examiner, since the flash memory disclosed in Chuang is not susceptible to the problems intended to be solved by Kirmuss. The modifications to Kirmuss system to use the flash memory in Chuang would render the Kirmuss system unsatisfactory for its intended purpose (namely to provide heating or cooling using a solid state pump as noted in paragraph [0038] of Kirmuss). The necessity that Kirmuss be modified to incorporate Chuang can not provide the motivation to combine the references used for an obviousness rejection under In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); see also MPEP sec. 2143(V).

In addition, the Examiner states that Kirmuss includes a heating and cooling element (294) and that therefore the Applicant's argument that the "heating and cooling element would teach away from an automobile version is overcome by Kirmuss teaching such feature." Applicant would agree that Kirmuss teaches a device to provide device heating/cooling so that the Kirmuss system can monitor and regulate its own temperature (para [0190]). Thus Kirmuss identifies a new structure using microprocessor-based temperature management (para [0199]) to allow the video recorder to actively control its operating temperature from within a sealed enclosure (para [0191]). However, the Examiner appears to have misunderstood Applicants' assertion that this same heating and cooling element teaches *away from* locating a video recorder in the car dash as claimed. Placing the video recorder in an environment such as dash in the passenger compartment which is capable of being kept at a comfortable temperature for the car's human operator obviates the need for the structure disclosed in Kirmuss. The Examiner can not therefore properly combine Kirmuss with other references when the combination would change the basic principle of operation of the Kirmuss system. See, e.g., In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

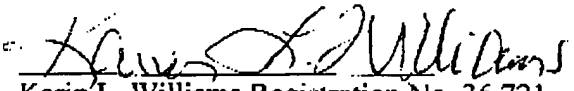
While Kirmuss does state that its system is small and can fit "in most compartments of the carrier vehicle" (para [0152]), the statement is too vague to provide the requisite suggestion that the video recorder be located in the dash as claimed in the present application. Kirmuss makes no explicit reference to using the dash area of a passenger compartment to locate the video recorder. Instead, the specific compartment noted by Kirmuss includes the vehicle's trunk (para [0012], [0199], and [0206]) since this area can experience very high temperatures. And even if, for the sake of argument, Kirmuss was viewed as implicdly suggesting the use of the dash area, the motivation to combine Kirmuss with other references is still lacking. In particular, the combination of Kirmuss with Beckert (US 5,794,164), which the Examiner states shows a computer system mounted in a dashboard, is not proper. For an implicit showing, the test is what "the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); see also MPEP

§2143.01(I). Applicant asserts that the nature of the problem in Kirmuss is dealing with high temperatures in car trunks as "rarely is the temperature of the space of trunks regulated, and the internal temperatures in the unregulated trunk often rise to 150° F or more" (para [0012]). The Examiner has therefore not shown a proper basis for making the combination of Kirmuss and Beckert under such a test to the contrary.

For at least the foregoing reasons, each of independent Claims 1 and 12 is believed to be clearly patentable over any permissible combination of the teachings of Kirmuss, Chuang and Beckert. In addition, dependent Claims 2-7, 13-16 and 18-20 are believed patentable as depending from a patentable independent Claim 1 or 12, and for reciting further distinguishing limitations thereover.

Since the Applicant has fully responded to each rejection set out in the final Office Action, it is respectfully submitted that in regard to the above remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this Response After Final Rejection or of the application at large, request is made that the Examiner telephone the Applicant's undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,



Karin L. Williams Registration No. 36,721

Please Continue to Send All Correspondence to:

Mayer & Williams PC
251 North Ave West, 2nd Floor
Westfield, NJ 07090